

**Amendments to the Drawings:**

Please replace drawing sheet 4 (Fig. 4) with the attached replacement drawing sheet.

### **REMARKS**

Prior to entry of this amendment, claims 7-10 and 21-38 were pending in this application. Claims 29-31 and 35-36 include minor amendments. To expedite prosecution of this application, claims 7-10 and 21-28 are cancelled without prejudice to pursuing these claims in unamended or other forms in a continuation or other application. Applicants do not concede to the merits of the rejections of these claims. New claims 38-48 are added. Accordingly, claims 29-38 are now pending. In addition, applicants submit a replacement drawing sheet and amend the specification. No new matter is added.

In the Office Action mailed March 14, 2008, various drawings and claims were objected to and claims 7-10 and 21-38 were rejected. More specifically, the status of the application in light of this Office Action is as follows:

- (A) Claims 21-38 were objected to as being misnumbered;
- (B) The drawings were objected to as not showing certain features recited by claim 29;
- (C) Claim 35 was rejected under 35 U.S.C. 112 as being indefinite;
- (D) Claims 29-31 were rejected under 35 U.S.C. 103(a) over U.S. Patent Number 6,249,499 ("Andoh") in view of U.S. Patent No. 5,831,952 ("Yamada"); Claims 32-36 were rejected under 35 U.S.C. 103(a) over Andoh in view of Yamada and U.S. Patent No. 6,005,832 ("Kumagai"); Claim 37 was rejected under 35 U.S.C. 103(a) over Andoh in view of Yamada, U.S. Patent No. 6,909,678 ("Morishima"), and Yoshida; and Claim 38 was rejected under 35 U.S.C. 103(a) over Andoh in view of Yamada, Morishima, Yoshida, and Hira; and

- (E) Claims 7-9, 21-23, and 25-27 were rejected under 35 U.S.C. 103(a) over U.S. Patent No. 6,909,678 ("Morishima") in view of U.S. Patent No. 5,764,610 ("Yoshida"); and Claims 10, 24, and 28 were rejected under 35 U.S.C. 103(a) over Morishima in view of Yoshida and U.S. Patent Number 5,381,392 ("Hira");

The undersigned attorney and his colleague, Rajiv Sarathy, wish to thank Examiners Bibbins and Young for engaging in a telephone interview on July 23, 2008, to discuss the present Office Action, and the applied references. Further details regarding the telephone interview are provided below. If the Examiners need further information, they are encouraged to contact the undersigned attorney.

The following remarks summarize and expand upon the results of the July 23rd telephone conference, and they also reflect the agreements reached between the parties during the telephone conference. For example, the following remarks reflect the Examiner's acknowledgement that Andoh in view of Yamada cannot support a Section 103 rejection of claim 29.

A. Response to Objections to the Misnumbered Claims

The Office Action objected to the misnumbered claims 19-36 of the previously filed supplemental response. The Examiner renumbered misnumbered claims 19-36 to claims 21-38 and preserved the dependency of the renumbered claims. (Office Action, page 3). Applicants have presented renumbered claims and respectfully submit that this objection is moot in light of the renumbering of the claims.

B. Response to Objections to the Drawings

The Office Action objected to the drawings as not showing "determining a distance error" and "comparing the computed distance with a distance threshold" as recited in claim 29. During the Examiner interview, applicants' representatives agreed to provide a replacement sheet to depict these features. A replacement sheet is

provided herewith. Applicants respectfully submit that this objection is moot in light of the replacement sheet.

C. Response to Section 112 Rejection of Claim 35

The Office Action stated that there was insufficient antecedent basis for certain features of Claim 35. Claim 35 has been amended in the manner suggested by the Examiner. Applicants respectfully submit that this objection is moot in light of the above amendments.

D. Response to Section 103 Rejections of Claims 29-38

Claims 29-31 were rejected under 35 U.S.C. 103(a) over Andoh in view of U.S. Yamada.

Independent claim 29 is respectfully submitted to be allowable at least because the applied references fail to disclose, teach, or suggest "determining a distance error of the computed distance[.]" The Office Action points to col. 2, line 64 – col. 3 line 5 of Yamada as allegedly disclosing this feature. (Office Action, page 7). As agreed during the Examiner Interview, this section of Yamada fails to disclose, teach, or suggest "determining a distance error of the computed distance[.]" but rather states that "it is possible to discriminate between a DVD having a thin base substrate and a CD having a thick base substrate." The Office Action does not point to the other references as providing this claimed feature. For at least these reasons, independent claim 29 is respectfully submitted to be allowable.

Claims 30-38 are respectfully submitted to be allowable based at least upon their dependence from claim 29.

E. Response to Section 103 Rejections of Claims 7-10 and 21-28

Claims 7-10 and 21-28 are canceled. Accordingly, these rejections are now moot.

### New Claims 39-48

New independent claim 39 is respectfully submitted to be allowable at least because the applied references fail to disclose, teach, or suggest "a controller configured ... to determine a distance error according to a measurement error associated with the computed distance" as recited by claim 39. New independent claim 46 is respectfully submitted to be allowable at least because the applied references fail to disclose, teach, or suggest "determining a distance error of the computed distance" as recited by claim 46. New claims 40-45 and 47-48 are respectfully submitted to be allowable based at least on their dependence from one of claims 39 or 46.

New claims 39-48 are supported at least by figures 2-4 and paragraphs 18-28 of the original application (paragraphs 21-33 of the published application). Accordingly, applicants respectfully submit that new claims 39-48 do not constitute new matter.

### Conclusion

In view of the foregoing, the pending claims comply with the requirements of 35 U.S.C. § 112 and are patentable over the applied art. The applicants accordingly request reconsideration of the application and a mailing of a Notice of Allowance. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to contact Davin Chin at (206) 359-8000.

Respectfully submitted,  
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## **Appendix**